

Expanding Opportunities for Multinational Corporations in U.S.-Japan-Southeast Asia Relations

By Darren Mangado

Darren Mangado, visiting fellow at the East-West Center in Washington explains that “For some, these activities come off as an imposition of the U.S. agenda, with terrorism and transnational crimes viewed as excuses for a more U.S. interventionist stance in the region.”

Southeast Asia taps the private sector to help finance its more than \$3 trillion infrastructure deficit by promoting public-private partnerships (P3). To facilitate transparent and profitable P3 participation by the private sector, most Southeast Asian countries like Indonesia, Malaysia, and the Philippines have established P3 institutions and ratified legal reforms. Nevertheless, Southeast Asia’s initiatives have not been complemented by reciprocal initiatives and reforms by its major economic partners such as the United States to encourage multinational corporation (MNC) participation in P3. Unlike Japanese MNCs, U.S. MNCs do not receive support from their government in Southeast Asian infrastructure development engagement, and discouraged by its stringent enforcement of extraterritorial domestic laws such as the Foreign Corrupt Practices Act (FCPA). Thus, U.S. MNCs opt to invest in the ‘safer’ Southeast Asian services sector. This arrangement, however, can be self-defeating in the long run. Southeast Asian local businesses are thriving and effectively competing against their foreign counterparts in the services sector; and most Southeast Asian governments are increasingly becoming protective of their local services sectors. Meanwhile, U.S. limitations adversely create a capital vacuum in Southeast Asian infrastructure development projects that, in turn, justifies Southeast Asian reliance on other partners such as China to address infrastructure deficits.

The United States heavily relies on foreign aid and bilateral trade deals in its engagements with Southeast Asia. The amount of U.S. foreign aid has drastically decreased from \$1.08 billion total disbursement in 2016 to \$323.51 million in 2018. This amount cannot compete with economic assistance offered by China. Moreover, U.S. foreign aid is directed at activities which promote institutional reforms for market liberalization, transparent and democratic governance, and anti-terrorism and anti-transnational crimes programs. While important, these activities are not in line with Southeast Asia’s development priorities. For some, these activities come off as an imposition of the U.S. agenda, with terrorism and transnational crimes viewed as excuses for a more U.S. interventionist stance in the region. Meanwhile, the current U.S. preference for bilateral trade deals to address trade deficits and promote policy reforms in its partners can only achieve meager goals; U.S. developing partners cannot afford reciprocal and immediate market liberalization. Southeast Asia, for example, prefers gradual reforms at pace with its development agenda. These strategies inhibit the United States from responding adequately to Southeast Asian economic priorities, and fail to consider the demands other than market access of its own MNCs in their Southeast Asian operations.

The United States may improve its economic strategy in Southeast Asia by observing Japan and coordinating with existing Japanese institutions operating in the region. Japan’s economic strategy includes support for the Southeast Asian private sector. Japan sponsors economic institutions such as Japan Bank for International Cooperation (JBIC), which offers financial assistance not just to over 12,000 Japanese business entities operating in Southeast Asia, but also to Southeast Asian financial institutions, governments, and business entities in joint ventures with Japanese MNCs. Southeast Asia and the private sector benefited from JBIC with approximately \$45 billion loan commitments (from 1999 to 2016). These loans helped develop and diversify Southeast Asian businesses; and deeply integrated Japanese production networks to Southeast Asian local economies. Moreover, JBIC’s priority sectors, which include infrastructure development, complement Southeast Asian development

agendas and allow Japan to respond well to Southeast Asian priorities. Japan by itself, however, cannot address the entire Southeast Asian infrastructure deficit. The U.S. Overseas Private Investment Corporation (OPIC) and its reforms (outlined in the BUILD Act) can benefit from JBIC's example. Japan and the United States should foster and coordinate JBIC-OPIC partnership mechanisms to mitigate competition and expand opportunities for their respective MNCs and Southeast Asian partners in the region.

The stringent U.S. enforcement of the FCPA also discourages its own MNC operations abroad. The FCPA mandates the U.S. government to prosecute U.S. MNCs and their affiliates, foreign companies publicly listed in the United States, and individuals found guilty of supporting corrupt practices abroad. It discourages U.S. MNCs to expand their operations in potentially profitable but 'corrupt' developing countries. The U.S. DOJ and SEC recorded a total of 58 enforcement operations in 2016 (the highest recorded cases from 1977 to 2018). Companies can be charged with a settlement fee of up to \$1.7 billion.

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The annual ASEAN Business Outlook Survey consistently lists corruption as a primary concern for U.S. MNCs in Southeast Asia. The definition of corruption, however, is problematic. The FCPA only proscribes bribery and off-the books accounting, but in popular debates corruption is misconstrued to include intrusion by the state into the market. This conflicts with how corruption is viewed by much of the developing world, which notes corruption as the privatization of the public sector. For most developing countries, the solution to corruption is not an open market, which grants free reign to the private sector, but the establishment of a strong public sector that can exercise effective control even in the market. This disconnect is partly responsible for the U.S. perception of Southeast Asia as a region beleaguered by corruption. The FCPA and the general outlook discourage infrastructure investments in the region by U.S. MNCs. In some cases, the United States invokes corruption to avoid economic engagements with its prospective partners altogether, thus contributing to the capital vacuum, which other actors are happy to fill.

The United States can look at Japan's experience in Southeast Asia as an example of an effective economic strategy in the region. Japan prioritizes stability in its economic relations with Southeast Asia and relegates political issues including corruption as domestic issues that can be resolved by national governments. Japan supports institutional reforms initiated by Southeast Asian governments instead of foisting reforms upon them. Japan's tolerant attitude toward Southeast Asian political affairs has proven beneficial to regional economy and stability. Instead of disengaging with certain politically volatile Southeast Asian countries, Japan maintains economic relations with them through its MNCs. For example, in the 1990s, Japan allowed its MNCs to support the development of Vietnam's automobile industry even though it publicly honored the US-led economic sanctions against Vietnam. Japan and Japanese MNCs arguably served as catalyst for these countries to reintegrate their economies with the rest of the region and the world.

Southeast Asia is now calling for MNCs to share the burden in infrastructure development and not just to operate business as usual. The United States and Japan would do well to respond to this invitation by encouraging and supporting their MNCs to invest so as to avoid a capital vacuum that could justify Southeast Asia in veering away from the United States and Japan.

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